

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

RICHARD W. ISTRE, §  
§  
Plaintiff, §  
§  
VS. § CIVIL ACTION NO. H-05-3537  
§  
§  
FLYING J TRAVEL PLAZA OF §  
HOUSTON, §  
§  
§  
Defendant. §

**MEMORANDUM AND ORDER**

In October 2005, Defendant removed this personal injury action to federal court on the ground of diversity jurisdiction. Several months later, Plaintiff filed an Amended Complaint that included, for the first time, a demand for jury trial. Defendant now moves to strike the jury demand, arguing that Plaintiff waived his right to jury trial by failing to file it within ten (10) days of removal. *See* FED. R. CIV. P. 81(c). Plaintiff requests that the Court exercise its discretion to grant the untimely demand, which was the result of Plaintiff's counsel's mistaken belief that the Federal Rules resembled the Texas Rules of Civil Procedure in permitting a jury demand to be made as late as one month before trial. Because Plaintiff has offered a legitimate, good-faith reason for the delay, because this case was only recently removed, and because personal injury claims are particularly suited to trial by jury, Defendant's motion to strike, Docket No. 14, is hereby **DENIED**.

**IT IS SO ORDERED.**

**SIGNED** at Houston, Texas, on this the 18th day of April, 2006.



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KEITH P. ELLISON  
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES  
THIS ORDER SHALL FORWARD A COPY OF IT TO EVERY  
OTHER PARTY AND AFFECTED NON-PARTY EVEN THOUGH  
THEY MAY HAVE BEEN SENT ONE BY THE COURT.**